

**OFFICE OF LAWYERS PROFESSIONAL RESPONSIBILITY**  
**MEMORANDUM**

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TO: Lawyers Professional Responsibility Board Referees  
The Honorable Gail Chang Bohr  
The Honorable Christopher J. Dietzen  
The Honorable Peter M. Irvine  
The Honorable Jon Maturi  
The Honorable E. Anne McKinsey  
The Honorable Rosanne Nathanson  
The Honorable Paul A. Nelson  
The Honorable Richard C. Perkins

FROM: Susan M. Humiston, Director



Humiston, Susan  
Jun 14 2021 2:56 PM

CC: OLPR Personnel

DATE: June 14, 2021

RE: OLPR Courtroom COVID-19 Procedures

Attached is Chief Justice Gildea's Order of May 25, 2021. Of note and pursuant to Paragraph 13 of the Order, effective June 14, 2021, all discipline referee hearings can be held in person if the hearing is conducted consistent with the Judicial Branch COVID-19 Preparedness Plan, a copy of which is also attached.

As outlined in the COVID-19 Preparedness Plan, social distancing of at least six feet should be maintained whenever possible. Face coverings are no longer required in public areas of the Judicial Branch, however, face masks are required within a Courtroom. The presiding referee does have the discretion to direct people to remove their face coverings while in a courtroom, as long as six feet of physical distance in all directions can be maintained while the face coverings are removed. As you will see from the attached drawing of the OLPR courtroom, social distancing of six feet or more can be maintained for everyone except the referee and the court reporter. As such, we have installed a standalone Plexiglas shield on the bench to provide a barrier.

Because the OLPR courtroom is small, you may also wish to consider using another room at the Minnesota Judicial Center (MJC) for your hearings, or to continue using remote technology. MJC has a couple of conference rooms, including G06, which accommodate up to 20 people and can be configured for a hearing. Our Office is also proficient conducting and streaming referee and panel hearings through Zoom.

If you have questions, please connect with the Commissioner's Office or feel free to contact me.

**FILED**

May 25, 2021

**OFFICE OF  
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

ADM20-8001

**ORDER GOVERNING THE CONTINUING OPERATIONS OF THE  
MINNESOTA JUDICIAL BRANCH**

**O R D E R**

The operations of the Minnesota Judicial Branch during the peacetime emergency declared by the Governor of the State of Minnesota on March 13, 2020, are currently governed by the order filed on March 22, 2021. That order, which remains in effect through June 13, 2021, authorized a gradual and limited expansion of in-person operations and proceedings. *Order Governing the Continuing Operations of the Minnesota Judicial Branch*, No. ADM20-8001, at 1–2 (Minn. filed Mar. 22, 2021). Face coverings have been required for persons entering court facilities and attending proceedings conducted in person at court facilities, *Order Requiring Face Coverings at Court Facilities*, No. ADM20-8001 (Minn. filed July 7, 2020). Exposure control measures that are consistent with public health guidance have been implemented at the facilities and locations at which judicial branch proceedings are held.

The Governor has modified or lifted restrictions on certain gatherings and activities, and as of May 14, 2021, face coverings are encouraged but no longer required for some persons and in some settings. *See* Emergency Exec. Order No. 21-21 (May 6, 2021); Emergency Exec. Order No. 21-23 (May 14, 2021). Consistent with these steps and with public health guidance, the Judicial Branch will continue a gradual expansion of in-person

operations and proceedings, as set out below. Unless otherwise indicated, the directions in this order are effective June 14, 2021, and will govern through September 6, 2021.

IT IS HEREBY ORDERED THAT:

**A. Case Proceedings: district courts.**

1. Judges and court staff shall continue to process cases, in all case types, regardless of whether the judge or employee works at the court facility or remotely. Unless a proceeding is authorized to be held in person in a courtroom as set out in paragraphs 2 through 7 of this order, the proceeding shall be held by remote technology that permits the parties and attorneys to appear without being in the courtroom or by review of the parties' submissions without oral argument. Interpreters shall appear remotely if the technology is available to do so, even if the parties and attorneys appear in person, unless the presiding judge determines that the circumstances of the case require in-person interpreting services and the interpreter's appearance will be consistent with the district's COVID-19 Preparedness Plan.

2. In-person criminal jury trials shall continue to be scheduled and held in any county unless the chief judge of the district determines that the trial cannot proceed due to local conditions. District courts that schedule and hold an in-person criminal jury trial must adhere to the guidelines and exposure measures in the Judicial Branch COVID-19 Preparedness Plan and the Jury Management Resource Team (JMRT) Recommendations for Jury Trials During COVID-19.

3. Grand juries shall be impaneled and in-person proceedings held.

4. In-person proceedings shall be scheduled and held in sentencing hearings in criminal cases in which there is a presumptive commitment to the Department of Corrections unless the chief judge of the district determines that an in-person proceeding cannot be held due to local conditions.

5. In-person proceedings at which evidence will be presented on issues in dispute, court trials in major criminal case types, juvenile protection (including CHIPS and permanency), and juvenile delinquency case types, and settlement conferences in criminal cases, shall be scheduled and held unless the chief judge of the district determines that an in-person proceeding cannot be held due to local conditions. Effective August 2, 2021, in-person proceedings shall be held in mandatory misdemeanor criminal court trials and contested hearings in that case type, unless the chief judge of the district determines that an in-person proceeding cannot be held due to local conditions.

6. In-person civil jury trials may be held if the chief judge and the district administrator determine that holding that trial will not impact the scheduling of criminal jury trials in the district. Civil jury trials may proceed remotely if the presiding judge and the parties agree.

7. Effective as of the date of this order, proceedings in treatment court may be held in person if the chief judge of the district determines that an exception exists under the Treatment Court Hybrid Hearing Protocols Exception Process. Effective as of June 14, 2021, proceedings in treatment court may be held in person under the hybrid protocols established for such hearings if the chief judge of the district determines that doing so will

not interfere with the scheduling of in-person criminal jury trials and local conditions do not preclude an in-person proceeding.

8. Proceedings in the district court in criminal and civil cases, other than those proceedings subject to paragraphs 2, 3, 4, 5, 6, and 7 of this order, shall be conducted remotely unless the chief judge of the district in which the proceeding is to be held grants an exception for an in-person proceeding to be held.

9. Rules of procedure that prohibit holding court proceedings remotely or that constrain the use of remote technology to conduct court proceedings, specifically Minn. R. Crim. P. 1.05, Minn. Gen. R. Prac. 131, Minn. Gen. R. Prac. 309.02, Minn. Gen. R. Prac. 359.03, Minn. R. Juv. Prot. P. 11.03, Minn. R. Adopt. P. 12.03, Minn. Spec. R. Commit. P. 14, are suspended to the extent that those rules contradict the terms of this order.

10. All in-person proceedings must adhere to the guidelines and exposure measures in the Judicial Branch COVID-19 Preparedness Plan, including with respect to limits on the number of persons attending the hearing, face coverings, and, if applicable, the Jury Management Resource Team (JMRT) Recommendations for Jury Trials During COVID-19.

**B. Case Proceedings: appellate courts.**

11. Proceedings in appeals pending before the Minnesota Court of Appeals and the Minnesota Supreme Court shall continue as scheduled by those courts.

12. Civil commitment proceedings that are before the Commitment Appeal Panel established under Minn. Stat. § 253B.19, subd. 1 (2020), shall continue as scheduled by the panel. The panel is authorized to conduct any proceedings or hearings by remote

technology to the extent possible. If an examiner is appointed to prepare a report for a proceeding before the panel, the Clerk of the Appellate Courts will hold a pre-hearing scheduling conference within 10 days after the examiner's final report is filed. No hearing on the petition will be scheduled before the examiner's report is filed.

13. The Office of Lawyers Professional Responsibility and the Board of Law Examiners shall continue to conduct the business of those offices consistent with the sound discretion of the Directors of those offices and the rules that govern the work of and proceedings before those offices. The Directors of those offices are authorized to use remote technology or other distancing measures to the extent feasible and as needed to continue the operations of the office and for proceedings before the boards or panels of those offices that are held under the rules governing those proceedings. Referees appointed by this court to conduct public hearings under the Rules on Lawyers Professional Responsibility can hold a hearing in person if the hearing is conducted consistent with the Judicial Branch COVID-19 Preparedness Plan.

**C. Court Facilities, Public Access, and Court Administration.**

14. The courts remain open for business, with access to court facilities governed by the Minnesota Judicial Branch COVID-19 Preparedness Plan. For county-owned facilities, access is also subject to conditions county officials impose.

15. At least one public service counter in each county and the public service counter for the appellate courts must be accessible to court customers between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (excluding court holidays). At the discretion of the chief judge and the district administrator for the district courts, and for the appellate

courts, the discretion of the clerk of appellate courts, and after consultation with the State Court Administrator, access to counter services may be provided remotely, by appointment, or in person. Self-help services and facilities shall continue to provide services by appointment, remotely, or by telephone.

16. The district and appellate courts shall continue to accept filings in all case types. Unless required by court rule to file through an electronic case filing system, parties shall use U.S. mail, or in the district court, fax, to submit filings; may use a drop box designated by court administration for in-person filings, if available; and if use is authorized by court administration, may submit filings by e-mail. The State Court Administrator is authorized to implement and publish procedures for the payment of fees that are required for documents filed other than through the electronic case filing system or by U.S. mail.

17. Access to the courtroom for in-person proceedings is limited to the parties in the case who are participating in the proceeding, attorneys who represent those parties, any necessary court staff, and other individuals designated by the presiding judge as necessary to the proceeding. All proceedings conducted using remote technology, by ITV, by telephone, or by other remote means are to be conducted in the same manner as an in-person proceeding and are governed by the applicable rules of procedure. All proceedings remain subject to the Judicial Branch's rules that limit or prohibit recordings of proceedings. Other than as provided by paragraph 18 of this order, no person attending a proceeding may record the proceeding or hearing. The only recording permitted is the official recording created by the court.



18. Representatives of the media are permitted to attend in-person proceedings held in courtrooms and to record those proceedings as permitted by court rules. Unless waived by the presiding judge or a representative of the Court Information Office, requests by media representatives to attend any proceeding, including proceedings held remotely and other than in Hennepin County District Court, must be coordinated through the Judicial Branch Court Information Office at least 24 hours before the scheduled time of the proceeding. Media requesting attendance at proceedings in Hennepin County must coordinate with the Hennepin County District Court Information Officer. No recording or broadcasting of any proceeding, whether held in person or remotely, is authorized other than as provided by court rules. It is the intention of this order that judges and court administration may limit the number of persons in attendance at proceedings, including the number of media representatives, in a manner that is consistent with the Judicial Branch COVID-19 Preparedness Plan.

19. The State Court Administrator is authorized to implement temporary modifications to Judicial Branch policies and procedures that support the processing of cases pending in the district courts, including temporary adjustments to work assignments based on need and availability of Judicial Branch personnel. Judicial Branch employees shall work at the facility or remotely, as directed by the employee's supervisor. The Minnesota Judicial Branch COVID-19 Preparedness Plan governs judicial branch employees working at a court facility, including the Minnesota Judicial Center.

20. Access to the State Law Library shall be as established by the State Law Librarian in consultation with the State Court Administrator.

21. This order and the Minnesota Judicial Branch COVID-19 Preparedness Plan supersede the order of July 7, 2020, which required face coverings in court facilities. To the extent that the provisions of this order are inconsistent with any previous order governing the operations of the Judicial Branch, the provisions of this order control.

Dated: May 25, 2021

BY THE COURT:

A handwritten signature in black ink, appearing to read "Lorie S. Gildea". The signature is written in a cursive, flowing style.

Lorie S. Gildea  
Chief Justice



# MINNESOTA JUDICIAL BRANCH

STATE COURT ADMINISTRATOR'S OFFICE

## Minnesota Judicial Branch COVID-19 Preparedness Plan

REVISED: June 14, 2021

Under the Supreme Court Order No. ADM 20-8001 (May 25, 2021), the Minnesota Judicial Branch has continued to transition from remote work with limited in-person proceedings to expanded in-person operations in all court locations. This plan, which is based on guidance from the Minnesota Department of Health (MDH) and the Centers for Disease Control and Prevention (CDC), outlines the health and safety parameters that every court facility must maintain as in-person operations continue to expand. The Minnesota Judicial Branch's top priority continues to be protecting the health and safety of judicial officers, staff, and court users, as more people become vaccinated against COVID-19 and case rates continue to decline.

Chief Judges, District Administrators, and the State Court Administrator shall determine how judicial officers and staff will return to work in court facilities to support the expansion of in-person court operations, subject to the following requirements:

1. **Suspected COVID-19 Cases Must Stay Home:** People must stay home when sick or if they have had close contact with a person who has tested positive for COVID-19. [Symptoms of Coronavirus](#). People who have symptoms compatible with COVID-19 must stay home for the amount of time listed on the [CDC's website](#). Additionally, if a household member or close contact has tested positive for COVID-19, people must stay home per [CDC guidelines](#). However, based on the CDC guidance, people who are fully vaccinated or have had COVID-19 within the past 3 months do not need to stay home unless they have symptoms of COVID-19.
2. **Social Distancing:** Social distancing is paramount in helping to prevent the spread of COVID-19. When possible, people must maintain at least 6 feet of distance in all directions at all times. Social distancing is not required for brief interactions, or when people are wearing face coverings. "Brief interactions" means people from two or more different households are within 6 feet of each other for less than 15 minutes total within a 24-hour period.
3. **Face Coverings:** Face coverings are an additional measure to prevent the spread of COVID-19. Any person who wishes to wear a face covering in a Judicial Branch facility may do so, but the Judicial Branch may require the removal of face coverings for reasons of health, safety, or decency, or for purposes of conducting a court proceeding. In certain situations, face coverings are required in Judicial Branch facilities. Any person who claims that a health condition prevents that person from wearing a face covering when required must present written medical documentation that the health condition prevents that person from wearing a face covering. A [face shield](#) will be provided for those with corresponding medical documentation. See Appendix A for additional guidance.
  - a) **Face Coverings in Courtrooms:** Because court proceedings involve people from multiple households and often last longer than 15 minutes, all people must wear face coverings when

they enter courtrooms in Judicial Branch facilities. The presiding judge has discretion to direct people to remove their face coverings while in a courtroom, as long as 6 feet of physical distance in all directions can be maintained while the face coverings are removed. If unusual circumstances make it necessary to remove a face covering while in the courtroom even though physical distance is not maintained, the presiding judge may direct the removal of the face covering if an alternate safety measure, such as a face shield or a plexiglass barrier, is maintained.

- b) **Face Coverings in Jury Deliberation Spaces:** Because juries include people from multiple households gathered together for significant periods of time, all people must wear face coverings while located in jury deliberation spaces, except when they can maintain 6 feet of physical distance in all directions.
  - c) **Face Coverings in Public Areas:** Except in courtrooms, the Judicial Branch will no longer require people to wear face coverings while in public areas of Judicial Branch facilities. However, if a local government entity owns the Judicial Branch facility and chooses to require face coverings in public areas of the facility, people must follow that local government requirement.
  - d) **Face Coverings in Non-Public Areas:** Face coverings are not required in non-public areas of Judicial Branch facilities, except when people spend more than 15 minutes within 6 feet of each other during a 24-hour period. If people spend more than 15 minutes within 6 feet of each other during a 24-hour period in a non-public area of a Judicial Branch facility, they need to wear face coverings unless they are separated by a partition or barrier, as described in Appendix B.
- 4. **Personal Hygiene:** People in Judicial Branch facilities are encouraged to frequently wash their hands with soap and water for 20 seconds, or to use hand sanitizer with a minimum of 60% alcohol when soap and water are not available. People should also cover any coughs, and should avoid touching their faces.
  - 5. **Cleaning and Disinfecting Surfaces:** Shared spaces should be cleaned once a day, with priority given to high-touch surfaces. If there has been a sick person or someone who tested positive for COVID-19 within the last 24 hours, the space must be both cleaned and disinfected. See [Cleaning and Disinfecting Your Facility](#) for additional guidance.

The following measures are recommended to ensure court facilities operate in compliance with the requirements listed above:

- 1. Increase physical distance between staff at the worksite.
- 2. Maintain social distancing even during breaks, lunch, and other social contacts.
- 3. Implement staggered work schedules if necessary to maintain social distancing.
- 4. Consider conducting meetings and delivering services remotely to reduce the number of people who must be physically present in court facilities.

### **Building and Work Environment Ventilation**

Ventilation is an important factor in preventing COVID-19 transmission indoors. Tenants should consult with facility owners and operators to evaluate the operational capacity of ventilation systems provided throughout the building.

**Ventilation Exposure Control Measures:**

1. Bring in fresh outdoor air as much as possible.
2. Limit air recirculation if able to.
3. Confirm steps are being taken to minimize air flow blowing across people.
4. If available, ensure exhaust fans in restroom facilities are functional and operating when the building is occupied.
5. If feasible, disable demand-control ventilation controls that reduce air supply based on temperature or occupancy.
6. If accessible, run the HVAC at least two hours before and after spaces are occupied to purge air and allow extra circulation.

**Employee Notification Protocol**

If a judge or court employee reports a positive COVID-19 test, the Employee Notification Protocol shall be followed.

**Purchases for Ongoing Operations**

Purchasing will be coordinated by State Court Administration, the District Office or local court facility dependent upon best price and availability of product. The following products must be purchased and available in court facilities while the preparedness plan is in effect.

1. Cleaning and disinfecting supplies
2. Paper masks for jurors and for individuals who need to enter courtrooms and who do not have access to their own face coverings
  - Note: Law firms and justice partner agencies are expected to provide face coverings for their employees who must enter courtrooms
3. Disposable face shields for jurors and for individuals who need to enter courtrooms, who do not have access to their own face shields, and who are medically unable to wear a paper mask
4. Partitions or Barriers (if necessary given the court facility's layout)

## Appendix A – Face Coverings

Face coverings are an additional measure to prevent the spread of COVID-19. Any person who wishes to wear a face covering in a Judicial Branch facility may do so, but the Judicial Branch may require the removal of face coverings for reasons of health, safety, or decency, or for purposes of conducting a court proceeding. In certain situations, face coverings are required in Judicial Branch facilities. Any person who claims that a health condition prevents that person from wearing a face covering when required must present written medical documentation that the health condition prevents that person from wearing a face covering. A [face shield](#) will be provided for those with corresponding medical documentation.

- a) **Face Coverings in Courtrooms:** Because court proceedings involve people from multiple households and often last longer than 15 minutes, all people must wear face coverings when they enter courtrooms in Judicial Branch facilities. The presiding judge has discretion to direct people to remove their face coverings while in a courtroom, as long as 6 feet of physical distance in all directions can be maintained while the face coverings are removed. If unusual circumstances make it necessary to remove a face covering while in the courtroom even though physical distance is not maintained, the presiding judge may direct the removal of the face covering if an alternate safety measure, such as a face shield or a plexiglass barrier, is maintained.
- b) **Face Coverings in Jury Deliberation Spaces:** Because juries include people from multiple households gathered together for significant periods of time, all people must wear face coverings while located in jury deliberation spaces, except when they can maintain 6 feet of physical distance in all directions.
- c) **Face Coverings in Other Public Areas:** Except in courtrooms, the Judicial Branch will no longer require people to wear face coverings while in public areas of Judicial Branch facilities. However, if a local government entity owns the Judicial Branch facility and chooses to require face coverings in public areas of the facility, people must follow that local government requirements
- d) **Face Coverings in Non-Public Areas:** Face coverings are not required in non-public areas of Judicial Branch facilities, except when people spend more than 15 minutes within 6 feet of each other during a 24-hour period. If people spend more than 15 minutes within 6 feet of each other during a 24-hour period in a non-public area of a Judicial Branch facility, they need to wear face coverings unless they are separated by a partition or barrier, as described in Appendix B.

All people wearing face coverings in Judicial Branch facilities should follow the CDC's [guidance on masks](#). Masks that incorporate a valve designed to facilitate easy exhaling, mesh masks, or masks with openings, holes, visible gaps in the design or material, or vents are **not** sufficient face coverings because they allow exhaled droplets to be released into the air.

The Judicial Branch will provide one face covering per day of service for jurors, should they not have their own to wear. Law firms and justice partner agencies are expected to provide face coverings for their employees, including both attorneys and non-attorneys, who must enter Judicial Branch courtrooms. The Judicial Branch will provide a face covering for other individuals who need to

enter Judicial Branch courtrooms and who do not have access to their own face coverings. As noted above, [face shields](#) are an option for individuals who need to enter a courtroom and who are medically unable to wear a face covering.

Judicial Branch employees and judges are directed to enforce this guidance in courtrooms, and may request assistance from county-employed security staff to do so.

Cloth face coverings should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the cloth face covering without assistance.

## Appendix B – Partitions and Barriers

**Social distancing is paramount in preventing the spread of the virus.** However, where social distancing cannot be maintained, especially at public counters and when moving about in courtrooms, local management personnel should coordinate with local property management to evaluate the feasibility of the installation of partitions or barriers (either permanent or temporary). Local management should secure agreements with county management on who is responsible for the purchase and installation of partitions and barriers. The purpose of the partition or barrier is to separate individuals that come into close contact with one another. Partitions and barriers that meet all the recommendations listed below may be used in lieu of the required 6 feet of social distancing.

The following recommendations are suggested for the use of partitions and barriers.

### **Partitions and Barriers Recommendations:**

1. Height and width of partition or barrier should provide for the greatest protection when social distancing cannot be maintained, paying particular attention to provide coverage of the mouth of each person on either side of the partition.
2. The partition or barrier should be the width of the counter/desk of the persons making an exchange of dialogue, documents, etc.
3. The partition or barrier height should be substantial enough that persons on both sides of the partition should not be able to see over the top of it (e.g., high enough to cover a person standing/sitting at counter/desk).
4. Large openings defeat the purpose of separating individuals that come into close contact with one another. Therefore a small opening at the counter level is acceptable and should only be large enough to allow for the passage of documents, payments, etc. Openings should be limited to 6"x6" or 6"x12" depending on the business need. Openings at face level should be covered.

### **Partitions and Barriers Should:**

- be constructed from a material that is easy to clean and disinfect.

### **Partitions and Barriers Should Not:**

- be constructed from flammable material.
- block sprinklers or other fire suppression systems.

### **Cubicle Walls**

In office settings, social distancing is the primary method for minimizing exposure between staff. If 6 feet of social distancing can be maintained between desk chairs, no further action is needed. If 6 feet of social distancing cannot be maintained, consider staggering shifts, rotating staff through the office, assigning cube spaces diagonally (as opposed to immediately adjacent or across from each other) and telework to minimize the number of staff in the office at the same time to meet social distancing requirements. Cubicle walls that meet the recommendations listed below may be used in lieu of the required 6 feet of social distancing requirement.

### **Cubicle Walls Recommendations:**

1. There should be no openings in cubicle walls between work stations (e.g., no partial walls).



2. Employees on both sides of the cubicle should not be able to see over the cubicle walls (walls should be high enough to cover a staff member sitting/standing at desk).

